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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 SIOBHAN GENESSI,

12 Plaintiff,

13 v.

14 PLACER COUNTY SUPERIOR COURT,
15 *et al.*,

16 Defendants.
17

Case No. 2:23-cv-1054-DAD-JDP (PS)

FINDINGS AND RECOMMENDATIONS

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19 Plaintiff Siobhan Genessi has filed a second amended complaint against the Placer County
20 Child Protective Services, Placer County Counselors Kee Ana Smith and Roger Coffman, and
21 Placer County CPS employee Hilary Trauth. Plaintiff's second amended complaint, however,
22 fails to fix the deficiencies noted in my prior screening orders. I recommend that the complaint
23 be dismissed without leave to amend.

24 **Screening and Pleading Requirements**

25 A complaint must contain a short and plain statement that plaintiff is entitled to relief,
26 Fed. R. Civ. P. 8(a)(2), and provide "enough facts to state a claim to relief that is plausible on its
27 face," *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). The plausibility standard does not
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1 require detailed allegations, but legal conclusions do not suffice. *See Ashcroft v. Iqbal*, 556 U.S.
2 662, 678 (2009). If the allegations “do not permit the court to infer more than the mere
3 possibility of misconduct,” the complaint states no claim. *Id.* at 679. The complaint need not
4 identify “a precise legal theory.” *Kobold v. Good Samaritan Reg’l Med. Ctr.*, 832 F.3d 1024,
5 1038 (9th Cir. 2016). Instead, what plaintiff must state is a “claim”—a set of “allegations that
6 give rise to an enforceable right to relief.” *Nagrampa v. MailCoups, Inc.*, 469 F.3d 1257, 1264
7 n.2 (9th Cir. 2006) (en banc) (citations omitted).

8 The court must construe a pro se litigant’s complaint liberally. *See Haines v. Kerner*, 404
9 U.S. 519, 520 (1972) (per curiam). The court may dismiss a pro se litigant’s complaint “if it
10 appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which
11 would entitle him to relief.” *Hayes v. Idaho Corr. Ctr.*, 849 F.3d 1204, 1208 (9th Cir. 2017).
12 However, “‘a liberal interpretation of a civil rights complaint may not supply essential elements
13 of the claim that were not initially pled.’” *Bruns v. Nat’l Credit Union Admin.*, 122 F.3d 1251,
14 1257 (9th Cir. 1997) (quoting *Ivey v. Bd. of Regents*, 673 F.2d 266, 268 (9th Cir. 1982)).

15 Analysis

16 The factual allegations from the first and second amended complaints are materially the
17 same. *See* ECF Nos. 12 & 18. Plaintiff’s allegations surround her son’s removal from her care
18 and the subsequent child custody determination. Of note, plaintiff alleges that Placer County CPS
19 removed her son under the guise of a non-existent warrant. ECF No. 18 at 1-2. Plaintiff claims
20 that, following her son’s removal, Placer County CPS worker Hilary Trauth and county
21 counselors Kee Ana Smith and Roger Coffman made misrepresentations about her to the court.
22 Those misrepresentations led to her loss of custody rights. *Id.* at 2-6.

23 As noted in my prior order, county counselors Smith and Coffman are immune from this
24 suit. ECF No. 14. Smith and Coffman, who appear to have been acting as prosecutors, enjoy
25 immunity from suit when they act within the scope of their prosecutorial duties. *See Imbler v.*
26 *Pachtman*, 424 U.S. 409, 420 (1976). Because plaintiff attempts to impose liability for acts taken
27 in the county counsels’ prosecutorial capacity, these claims fail.
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1 Plaintiff's allegations that CPS employee Trauth made false statements to the state court,
2 as previously discussed, violate *Rooker-Feldman*. *Noel v. Hall*, 341 F.3d 1148, 1163-65 (9th Cir.
3 2003) (discussing *Rooker-Feldman* doctrine); *see also Henrichs v. Valley View Dev.*, 474 F.3d
4 609, 616 (9th Cir. 2007) (explaining that the *Rooker-Feldman* doctrine barred the plaintiff's claim
5 because alleged legal injuries arose from the "state court's purportedly erroneous judgment" and
6 the relief he sought "would require the district court to determine that the state court's decision
7 was wrong and thus void"). The allegations against Trauth are barred because plaintiff had the
8 opportunity to present this argument to the state court before the court made its final
9 determination. *See Reusser v. Wachovia Bank, N.A.*, 525 F.3d 855, 859-60 (9th Cir. 2008).

10 The complaint also fails to state a denial of familial association claim against Placer
11 County CPS. *See Keates v. Koile*, 883 F.3d 1228, 1236 (9th Cir. 2018). Plaintiff does not allege
12 that any particular CPS worker removed her son without a warrant. Indeed, plaintiff has not
13 added any factual allegations relating to the removal of her son. As I previously explained, CPS
14 is not the proper defendant because CPS is considered "merely [an] administrative unit[] of the
15 state and ha[s] no capacity to be sued." *Smith v. Barrow Neurological Institute*, No. CV 10-
16 01632-PHX-FJM, 2013 WL 526391, at *3 (D. Az. Feb. 12, 2013).

17 Plaintiff has also failed to cure the deficiencies in her complaint to state a *Monell* claim.
18 "Municipalities and other local government units . . . [are] among those persons to whom § 1983
19 applies." *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658, 690 (1978). Moreover, a municipal entity
20 or its departments, like Placer CPS, is liable under § 1983 only if the plaintiff shows that his or
21 her constitutional injury was caused by employees acting pursuant to the municipality's policy or
22 custom. *See Villegas v. Gilroy Garlic Festival Ass'n*, 541 F.3d 950, 964 (9th Cir. 2008). And
23 here, plaintiff has failed to allege any custom or practice by CPS that deprived her of her
24 constitutional rights. The single incident of her son's warrantless removal cannot stand as the
25 basis for a *Monell* claim. "A plaintiff cannot prove the existence of a municipal policy or custom
26 based solely on the occurrence of a single incident of unconstitutional action by a non-
27 policymaking employee." *Davis v. City of Ellensburg*, 869 F.2d 1230, 1233 (9th Cir. 1989); *see*
28 *City of Oklahoma City v. Tuttle*, 471 U.S. 808, 823-24 (1985) (plurality opinion).

1 Plaintiff has failed to cure the allegations against the named defendants. And, given that
2 plaintiff has “had several opportunities to amend [her] complaint and repeatedly failed to cure
3 deficiencies,” I recommend that this action be dismissed without leave to amend. *See Telesaurus*
4 *VPC, LLC v. Power*, 623 F.3d 998, 1003 (9th Cir. 2010).

5 Accordingly, it is hereby RECOMMENDED that:

6 1. Plaintiff’s second amended complaint, ECF No. 18, be dismissed without leave to
7 amend.

8 2. The Clerk of Court be directed to close this action.

9 These findings and recommendations are submitted to the United States District Judge
10 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days of
11 service of these findings and recommendations, any party may file written objections with the
12 court and serve a copy on all parties. Any such document should be captioned “Objections to
13 Magistrate Judge’s Findings and Recommendations,” and any response shall be served and filed
14 within fourteen days of service of the objections. The parties are advised that failure to file
15 objections within the specified time may waive the right to appeal the District Court’s order. *See*
16 *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir.
17 1991).

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19 IT IS SO ORDERED.

20 Dated: March 3, 2025

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22 JEREMY D. PETERSON
23 UNITED STATES MAGISTRATE JUDGE
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